

In re: Schwarz
Serial No.: 09/733,306
Filed: December 8, 2000
Page 4 of 6

REMARKS

Applicant appreciates the thorough examination of the present application as evidenced by the Office Action dated November 16, 2005 (hereinafter, "Office Action"). Claims 1, 2, 7-11, 17-19, 47 and 48 are pending in this application upon entry of this Amendment. Applicant has amended Claims 1, 2 and 11 herein, and Applicant has added new Claims 47 and 48. Support for these amendments can be found throughout the specification and/or original claims. Accordingly, no new matter is added by the entry of these amendments, and Applicant respectfully requests entry thereof.

Applicant respectfully submits that Claims 1, 2, 7-11, 17-19, 47 and 48 are patentable for at least the reasons set forth below.

I. Claim Rejections Under 35 U.S.C. § 112, First Paragraph, Written Description

Claims 1, 2, 4, 6-12, 14 and 16-19 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. *See* Office Action, page 2. Applicants respectfully disagree.

In an effort to expedite prosecution; however, Applicant has amended Claims 1 and 11 to include the recitations of Claims 3 and 13, respectively, so that the claims recite the language "an antibody that specifically binds to EMAP II of SEQ ID NO:4." Claim 2 has been amended to provide recitations consistent with the amendment to Claim 1.

Accordingly, Applicant respectfully requests that the rejection of Claims 1, 2, 7-11 and 17-19 under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement, be withdrawn.

II. Claim Rejections Under 35 U.S.C. § 112, First Paragraph, Enablement

Claims 1, 2, 4, 6-12, 14 and 16-19 stand rejected under 35 U.S.C. § 112, first paragraph, as lacking enablement. *See* Office Action, page 7. Applicant respectfully disagrees with this assertion; however, in an effort to expedite prosecution, Applicant has amended Claims 1 and 11 as noted above. Thus, the independent claims include a recitation directed to an antibody that specifically binds to EMAP II of SEQ ID NO:4.

In re: Schwarz
Serial No.: 09/733,306
Filed: December 8, 2000
Page 5 of 6

In view of the claim amendments, the specification and the information known in the art, Applicant respectfully submits that one skilled in the art relevant to the present invention would be able to practice the presently-claimed invention without "undue" experimentation.

Accordingly, Applicant respectfully requests that the rejection of Claims 1, 2, 7-11 and 17-19 under 35 U.S.C. § 112, first paragraph, as lacking enablement, be withdrawn.

III. Claim Rejections Under 35 U.S.C. §102

Claims 1-3 and 11-13 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,306,612 to Schwarz et al. See Office Action, page 11.

As noted in the Office Action, a rejection under 35 U.S.C. § 102(e) "might be overcome either by showing under 37 C.F.R. §1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention 'by another,' or by an appropriate showing under 37 C.F.R. §1.131." Office Action, page 11. Applicant submits concurrently herewith a Declaration of Margaret A. Schwarz Pursuant to 37 C.F.R. §1.132 (hereinafter, "Declaration"). As noted in the Declaration, Dr. Margaret Schwarz is a co-inventor of U.S. Patent No. 6,306,612, filed November 12, 1999 and issued October 23, 2001, entitled "Methods of Facilitating Vascular Growth" ("the '612 patent"), and to the extent that the subject matter of the presently-claimed invention is disclosed in the '612 patent, Applicant respectfully submits that it is solely the invention of Dr. Margaret A. Schwarz.

Accordingly, Applicant respectfully requests that the rejection of Claims 1-3 and 11-13 under 35 U.S.C. § 102(e) be withdrawn.

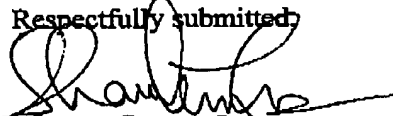
In re: Schwarz
Serial No.: 09/733,306
Filed: December 8, 2000
Page 6 of 6

Conclusion

In view of the foregoing amendments and remarks, Applicant respectfully requests that all outstanding rejections to the claims be withdrawn and that a Notice of Allowance be issued in due course. The Examiner is invited and encouraged to contact the undersigned directly if such contact will expedite the prosecution of the pending claims to issue. In any event, any questions that the Examiner may have should be directed to the undersigned, who may be reached at (919) 854-1400.

No fees are believed due. In the event that additional fees are necessary to allow consideration of this paper, such an extension is also hereby petitioned for under 37 C.F.R. § 1.136(a). Any additional fees believed to be due in connection with this paper may be charged to our Deposit Account No. 50-0220.

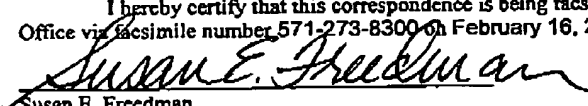
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**CERTIFICATION OF FACSIMILE TRANSMISSION
UNDER 37 CFR § 1.8**

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office via facsimile number 571-273-8300 on February 16, 2006.


Susan E. Freedman

Date of Signature: February 16, 2006